

BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319

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JAZZMYN T PHILLIPS

Claimant

and

IWD INVESTIGATIONS & RECOVERY

HEARING NUMBER: 20BUI-02821

EMPLOYMENT APPEAL BOARD  
DECISION

N O T I C E

**THIS DECISION BECOMES FINAL** unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

**A REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

**SECTION:** 96.5-13, 96.16-4

D E C I S I O N

**UNEMPLOYMENT BENEFITS ARE DENIED**

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**:

The Findings of Fact are modified to add the following:

The Claimant has paid the full amount owed as of May 25, 2020.

The Reasoning and Conclusions of Law are modified to add the following:

Iowa Code section 17A.14 provides:

Rules of evidence -- official notice.

In contested cases: ...

4. Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the agency. Parties shall be notified at the earliest practicable time, either before or during the hearing, or by reference in preliminary reports, preliminary decisions or otherwise, of the facts proposed to be noticed and their source, including any staff memoranda or data, and the parties shall be afforded an opportunity to contest such facts before the decision is announced unless the agency determines as part of the record or decision that fairness to the parties does not require an opportunity to contest such facts.

Under the rules of court, the matters of which judicial notice may be taken are:

Rule 5.201 Judicial notice of adjudicative facts.

a. Scope of rule. This rule governs only judicial notice of adjudicative facts.

b. Kinds of facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

Iowa Rule of Evidence 5.201.

The Board has reviewed the claim history, protest history, and the payment history in this case. We have done this by consulting with Iowa Workforce Development concerning records we are authorized to consult. We have taken official notice of the records because those records are a "sourc[e] whose accuracy cannot reasonably be questioned." I. R. Evid. 5.201. Further, the meaning of these records are within the "the specialized knowledge of the agency..." We need not give notice to these parties that we intend to take this notice since "fairness to the parties does not require an opportunity to contest such facts." Iowa Code §17A.14.

The Decision and Order is modified to add the following:

The Claimant has paid this overpayment and penalty as of the week beginning May 24, 2020. The Claimant is allowed benefits from May 24, 2020 going forward assuming she is otherwise eligible.

**The claim should no longer be locked as a result of owing a fraud overpayment as of the week beginning May 24, 2020.**

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**Note to Claimant:** This decision determines you are not eligible for regular unemployment insurance benefits. This decision will become final unless an application for rehearing, or a petition to district court is filed as set out above. In addition, individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations may still qualify for Pandemic Unemployment Assistance (PUA). You will need to apply for PUA to determine your eligibility under the program. Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

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Ashley R. Koopmans

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James M. Strohman

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Myron R. Linn

RRA/fnv